

The Honorable Benjamin Settle

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

CLYDE RAY SPENCER, MATTHEW  
RAY SPENCER, and KATHRYN E.  
TETZ,

Plaintiffs,

v.

FORMER DEPUTY PROSECUTING  
ATTORNEY FOR CLARK COUNTY  
JAMES M. PETERS, DETECTIVE  
SHARON KRAUSE, SERGEANT  
MICHAEL DAVIDSON, CLARK  
COUNTY PROSECUTOR'S OFFICE,  
CLARK COUNTY SHERIFF'S  
OFFICE, THE COUNTY OF CLARK  
and JOHN DOES ONE THROUGH  
TEN,

Defendants.

NO. C11-5424BHS

DECLARATION OF JAMES M.  
PETERS IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT

NOTED FOR JUNE 22, 2012

I, James M. Peters, make the following declaration under penalty of perjury:

I am over the age of 18, competent to testify about the matters stated herein, and make this  
declaration based upon my personal knowledge.

1. I am an Assistant United States Attorney. My business address is 800 Park Blvd.  
Suite 600 in Boise, Idaho. I graduated from law school in June of 1976, and was admitted to the  
Washington State Bar Association in February 1977. I accepted appointment as a Deputy  
Prosecuting Attorney for Clark County, Washington in March of 1977. I left this employment in

1 September of 1987, when I accepted a one year appointment with the American Prosecutors  
2 Research Institute located in Alexandria, Virginia. I formally resigned my employment with the  
3 Clark County Prosecuting Attorney's Office in the fall of 1988, when I took a full time position as  
4 a Senior Attorney with the American Prosecutors Research Institute. I became employed as an  
5 Assistant United States Attorney in September 1990, and have held this position continuously  
6 since that time.  
7

8 2. I first became involved in the events which led to the prosecution of plaintiff  
9 Clyde Ray Spencer in late 1984. My first involvement in this case consisted of a review of  
10 reports prepared by Sharon Krause, then a detective with the Clark County Sheriff's Department,  
11 and other law enforcement officers concerning allegations that Mr. Spencer had sexually abused  
12 his daughter Kathryn, who was then age five. Copies of these initial reports are attached as  
13 Exhibits 1 and 2 to the Declaration of Sharon Krause filed in support of the summary judgment  
14 for defendants. The purpose of my review was to assist Arthur Curtis, the elected Prosecuting  
15 Attorney for Clark County, in making a decision concerning whether or not to charge Mr. Spencer  
16 with sexually abusing his daughter Kathryn Spencer. By late 1984, I had worked on dozens of  
17 cases with Detective Krause involving alleged child sexual abuse and other violent crimes. Based  
18 upon this experience I found her to be an extremely thorough and competent investigator as well  
19 as a person of integrity who took her responsibilities as a law enforcement officer very seriously.  
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21

22 3. Because Mr. Spencer was then employed as a police officer for the City of  
23 Vancouver, Mr. Curtis had elected to send the police reports to the King County Prosecuting  
24 Attorney's Office for an outside review and opinion to assist him in making the charging decision.  
25 This was done to avoid any appearance that in making the charging decision the Clark County  
26

1 Prosecutor was favoring a local law enforcement officer. During my initial involvement in the  
2 Spencer case I was aware that Rebecca Roe, then a deputy prosecuting attorney for King County,  
3 had reviewed the initial reports of law enforcement and had opined in November of 1984, that,  
4 although Mr. Spencer was likely guilty in her opinion, prosecution would be challenging due to  
5 Kathryn's young age. Her report dated November 27, 1984, is attached as Exhibit 1 to the  
6 Declaration of Jeffrey Freimund filed in support of defendants' motion for summary judgment.  
7

8 4. Prior to the charging decision being made, Kathryn Spencer and her mother  
9 Deanne Spencer traveled to Vancouver. I met Kathryn and her mother briefly at my office, which  
10 was located on the third floor of the Clark County Courthouse, on December 10, 1984. I showed  
11 them the court room and explained the procedure to be followed in the event Kathryn were  
12 required to testify, something I did with many child witnesses. I did this to familiarize her with  
13 the court room setting in the event it was necessary for her to testify at a future date as she lived  
14 out of state and would not be readily available to me as trial approached.  
15

16 I interviewed Kathryn Spencer the following day, December 11. The purpose of this  
17 interview was to evaluate her competence as a witness, how she would present as a witness in the  
18 event the decision to charge was made and to weigh whether or not her testimony or her  
19 testimony, in combination with other evidence, would be sufficient to obtain a conviction. I also  
20 used the interview to establish a rapport with her in the event I later had to question her on the  
21 witness stand. My interview took place at the Clark County Sheriff's Office. Kathryn's mother  
22 was present in the interview room due to Kathryn's young age and her desire to have her mother  
23 present. Kathryn confirmed the allegations of sexual abuse by her father in the interview. A  
24 video tape was made of this interview. The interview was conducted at the Clark County  
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1 Sheriff's Office because that was the only location of video recording equipment available for use  
2 at that time. Detective Krause did not participate in the interview, nor did any other law  
3 enforcement officer, because the purpose of the interview was to assist in the prosecutor's  
4 decision concerning whether to file charges and, if so, to prepare Kathryn's testimony.  
5

6 5. The possible use of the Washington Child Hearsay Statute, RCW 9A.44.120 (a  
7 relatively new statute enacted as Laws of 1982, Ch. 129, Sec. 2) also factored into the  
8 prosecutor's decision concerning whether or not to charge Mr. Spencer with the alleged crimes  
9 against Kathryn. Even if Kathryn was unable to provide testimonial evidence when confronted  
10 with the need to testify, it was possible to offer hearsay testimony from her then stepmother  
11 Shirley Spencer, to whom she first disclosed, and possibly from Detective Krause concerning the  
12 alleged acts of abuse. The fact that Kathryn first disclosed to her stepmother, then married to Mr.  
13 Spencer, as opposed to her own mother, who was divorced from Mr. Spencer, and the child-like  
14 way it was disclosed to her stepmother also lent credibility to her accusations and was relevant to  
15 the charging decision.  
16

17 6. On or about January 3, 1985 I was party to a conversation that took place in the  
18 prosecutor's office with Arthur Curtis and Detective Sharon Krause where the subject of the  
19 internal affairs investigation then being conducted by the Vancouver Police Department  
20 concerning Mr. Spencer was discussed. In this conversation Mr. Curtis told Detective Krause and  
21 me that information had been conveyed to him by the Vancouver Police Chief or other senior law  
22 enforcement officers that the internal affairs investigation concerning Mr. Spencer had concluded  
23 with the recommendation that his employment would be terminated. We were informed that this  
24 decision of the Vancouver Police Department Internal Affairs Department was based upon several  
25  
26

1 instances of sexual misconduct that had taken place over the past several years. Included was his  
2 rape of a high school student several years previously as well as the determination by the internal  
3 affairs investigators that he had in fact sexually abused his daughter Kathryn. In this conversation  
4 Mr. Curtis asked based upon my interview whether Kathryn would be competent to testify. I  
5 reported to him that I believed that she would be found to be competent and that she had relayed  
6 information concerning the sexual abuse to me, although she did so with some difficulty as is  
7 typical of nearly all five year old witnesses. All these items factored into the decision ultimately  
8 made by Arthur Curtis to file an Information charging Mr. Spencer with two counts of sexually  
9 abusing Kathryn Spencer dated January 3, 1985, just over two weeks after my interview of  
10 Kathryn. See Exhibit 2 to Declaration of Jeffrey Freimund.

11  
12 7. James Rulli, then a Clark County attorney specializing in the defense of criminal  
13 matters who later became a Clark County Superior Court Judge, appeared to represent Mr.  
14 Spencer after the initial charges were filed. Mr. Spencer was released on personal recognizance  
15 for the charged crimes. After the charging decision was made by Mr. Curtis, I continued to  
16 participate in the prosecution along with Barbara Linde, a deputy prosecuting attorney for King  
17 County who had been appointed by Norm Maleng, then the King County Prosecuting Attorney, to  
18 handle the prosecution at the request of Mr. Curtis. On January 25, 1985, I entered into an  
19 Omnibus Application and Agreed Order with Mr. Rulli concerning discovery. Exhibit 1 hereto.  
20 At that time the Clark County Prosecutor's Office had a policy of full disclosure to defense  
21 counsel of everything contained in the prosecutor's file while a case was pending. When defense  
22 counsel came to our office and requested to copy items from our file, the procedure in place at that  
23 time was to provide the entire file to defense counsel and allow them to use our copy machine to  
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1 make copies of documents which they wished to copy. Defense counsel were provided an  
2 account and a counter which recorded the number of copies made which was billed to their  
3 individual account. A trial date was set but was later continued to May 20, 1985, after an  
4 Amended Information was filed charging Mr. Spencer with additional crimes as a result of the  
5 ongoing investigation conducted by the Clark County Sheriff's Department.  
6

7 8. The case against Mr. Spencer took on a new dimension following the interviews of  
8 Shirley Spencer and her son Matthew Hansen by Detective Krause on February 22 & 28, 1985.  
9 In these interviews Matthew Hansen, Mr. Spencer's then five year old stepson, disclosed acts of  
10 sexual abuse on the part of Mr. Spencer toward him. Matthew Hansen also stated that he had  
11 observed Mr. Spencer sexually abuse Kathryn and Matthew Spencer. See Exhibit 4 to  
12 Declaration of Sharon Krause.  
13

14 9. On February 28, 1985, following the procedure for obtaining an arrest warrant that  
15 was in place throughout my tenure with Clark County Prosecutor's Office, I filed a motion for  
16 issuance of a warrant for the arrest of Clyde Ray Spencer based upon information provided to me  
17 by Detective Krause concerning her interview of Matthew Hansen earlier that day in which he  
18 reported that his stepfather sexually abused him on multiple occasions. In my affidavit filed in  
19 support of the arrest warrant I relayed the allegations made by Matthew Hansen to Detective  
20 Krause later recorded in her report dated February 28, 1985. Exhibit 4 to Freimund Declaration. I  
21 had no reason then, and have no reason now, to believe that these statements were not recorded  
22 accurately by Detective Krause or to believe that they were fabricated by her or anyone else. A  
23 superior court judge found probable cause for issuance of an arrest warrant for Mr. Spencer and  
24 issued the arrest warrant later that same date. Exhibit 5 to Freimund Declaration.  
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1           10. Mr. Spencer was interviewed by Clark County Sheriff's deputies immediately  
2 following his arrest on February 28, 1985. In this interview Mr. Spencer did not deny the  
3 allegations made by Matthew Hansen but stated to the officers that he "just couldn't remember"  
4 whether he had sexually abused his daughter and stepson. Mr. Spencer also stated that "I must  
5 have done it if Little Matt said I did; this can't be my ex-wife this time." Exhibit 4, pg. 3 to  
6 Declaration of Sharon Krause. These admissions would have been used against Mr. Spencer if  
7 the case were to proceed to trial.  
8

9           11. On February 28, 1985, I filed a First Amended Information charging Mr. Spencer  
10 with additional counts of statutory rape related to the sexual abuse of Matthew Hansen. Exhibit 2  
11 hereto.  
12

13           12. On March 25, 1985, Detective Krause conducted follow up interviews of Kathryn  
14 Spencer and Matthew Spencer. In these interviews both the Spencer children disclosed sexual  
15 abuse by Mr. Spencer and corroborated the allegations made by Matthew Hansen the prior month.  
16 These disclosures led to the filing of a Second Amended Information charging Mr. Spencer with  
17 ten counts of first degree statutory rape and six counts of complicity to first degree statutory rape  
18 concerning the sexual abuse of his children and stepson. Exhibit 6 to Freimund Declaration. I  
19 was not present during these interviews and was not present at any of the interviews of the victims  
20 which were conducted by law enforcement officers.  
21

22           13. Trial preparation proceeded. I filed a notice required by RCW 9A.44.120 of the  
23 intent to use hearsay statements of the child victims and proceeded with trial preparation. Exhibit  
24 3 hereto. Mr. Rulli retained the services of a psychiatrist, Dr. Dixon, and a psychologist, Dr.  
25 McGovern, and arranged for his client to be transported from the Clark County Jail to their offices  
26

1 for evaluation. Exhibits 4 and 5 hereto. Neither raised any question concerning Mr. Spencer's  
2 competence. I was never notified by Mr. Spencer's counsel of a possible defense of insanity, lack  
3 of mental competence or lack of capacity.

4  
5 14. On May 3, 1985, Mr. Rulli asked that the trial date be continued so that he could  
6 travel to Sacramento, California to interview the Spencer children. Consistent with the Omnibus  
7 Application, Mr. Rulli applied to the court for permission to travel to Sacramento at county  
8 expense to interview the Spencer children. The court granted this request at a hearing held on  
9 May 3, 1985. Exhibit 8 to Freimund Declaration. Mr. Rulli's interviews of the Spencer children  
10 took place on May 9, 1985, in Sacramento, California. I accompanied Mr. Rulli to California and  
11 was present when he interviewed Kathryn and Matthew. Both children held to their earlier  
12 disclosures of abuse. While in California Mr. Rulli and I interviewed Kathryn's counselor who  
13 reported behavior consistent with sexual abuse in corroboration of Kathryn's statements, evidence  
14 which would be admissible if the case were to proceed to trial.

15  
16 15. Within days of our return to Clark County from California, Mr. Rulli reported to  
17 me that his client intended to plead guilty to the majority of the charges. I assumed that this  
18 sudden change of events was caused by the fact that the Spencer children held to their earlier  
19 disclosures of abuse during the interview with Mr. Rulli on May 9 and possibly other reasons  
20 known only to Mr. Rulli and his client. Mr. Spencer then entered into a Statement on Plea of  
21 Guilty to seven counts of first degree statutory rape and four counts of first degree complicity to  
22 statutory rape which was filed with the Court on May 16, 1985. Exhibit 7 to Freimund  
23 Declaration.  
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1           16. Mr. Spencer's *Alford* plea was accepted in open court by Judge Thomas Lodge at  
2 a hearing held on May 16, 1985. I was present with Mr. Spencer and his counsel on that date.  
3 During this hearing Judge Lodge made a thorough interrogation of Mr. Spencer on the record  
4 concerning whether or not he was entering his plea of guilty voluntarily. The court also took note  
5 of the fact presented by Mr. Spencer's counsel that he had been evaluated by both a psychiatrist,  
6 Dr. Dixon, and a psychologist, Dr. McGovern, both retained by Mr. Spencer, to determine if he  
7 was mentally competent to enter his plea of guilty. Judge Lodge questioned Mr. Spencer directly  
8 on this point. Exhibit 8 to Freimund declaration. At the close of the hearing Judge Lodge  
9 accepted the guilty plea as voluntary. Exhibit 8 to Freimund Declaration. Sentencing took place  
10 the following week before Judge Lodge on May 23, 1985.  
11

12           17. I took no further role in the prosecution of Mr. Spencer after entry of his guilty  
13 plea and sentencing that took place in May of 1985. I later learned that he attempted to set aside  
14 his plea of guilty in an appeal and made several attempts to attack the entry of judgment on plea of  
15 guilty collaterally by way of personal restraint petitions filed in the state court of appeals. I also  
16 learned that he filed a habeas corpus petition in United States District Court for the Western  
17 District of Washington at Tacoma in 1994 in which he alleged that his rights under the United  
18 States Constitution had been violated by alleged incompetence of counsel, claimed that alleged  
19 exculpatory evidence in the form of medical reports concerning Kathryn Spencer and Matthew  
20 Hansen had been withheld from him in violation of *Brady v. Maryland* and that he was not  
21 competent to enter the *Alford* pleas in May of 1985.  
22

23           18. An evidentiary hearing was ordered to be held in federal district court concerning  
24 the issues of Mr. Spencer's competence and the alleged withholding of the medical reports  
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1 concerning Matthew Hansen and Kathryn Spencer by the State. I testified as a witness at the  
2 hearing after being subpoenaed to testify by the State of Washington. The evidentiary hearing  
3 took place over three days before Judge Robert Bryan in September of 1996. I testified that my  
4 practice was to disclose all items in the prosecutor's file to the defense attorney while a case was  
5 pending and that I followed this practice in the Spencer case in 1985. If an item was not  
6 disclosed, such as the claimed medical reports, they most likely were never received by the  
7 prosecutor's office. At the close of the three day hearing Judge Bryan made a specific finding that  
8 neither medical report concerning Kathryn Spencer nor Matthew Hansen had been withheld from  
9 defense counsel by the prosecutor. Judge Bryan also found that neither report was material in that  
10 it would not have changed the defendant's decision to plead guilty. Other than participating as a  
11 witness at the 1996 habeas corpus proceeding, I took no part in any other post judgment  
12 proceedings brought by Mr. Spencer.  
13  
14

15 19. On October 9-10, 2005 the Vancouver Columbian newspaper ran a series of  
16 articles in which it reported that Mr. Spencer had ineffective assistance of counsel in 1985. The  
17 articles were also very critical of the work of Sharon Krause on the case. Because Mr. Spencer's  
18 former attorney Mr. Rulli was now a Clark County Superior Court Judge and could not speak to  
19 the press about the case, I felt compelled to defend the reputation of his former attorney as well as  
20 the work of Sharon Krause. I wrote a letter to the editor of the Vancouver Columbian within days  
21 after the news articles were published in October of 2005. Among other things I pointed out in  
22 this letter the ruling made by Judge Bryan and affirmed by the Ninth Circuit Court of Appeals that  
23 Mr. Spencer did in fact have competent counsel in 1985 and that his civil rights were not violated  
24  
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1 by Clark County law enforcement officers. I did not participate in other press releases made by  
2 the Clark County Prosecutor's Office concerning the Spencer case made at a future date.

3 20. I also later learned that Sgt. Michael Davidson, Detective Krause's supervisor in  
4 1985, became romantically involved with Shirley Spencer at some point. I had no knowledge of  
5 the existence of this relationship at the time I was involved in Mr. Spencer's prosecution.  
6 Although I had a professional working relationship with Sgt. Davidson during this period of time,  
7 I was not a social friend of Sgt. Davidson and had no knowledge of his matrimonial or romantic  
8 relationships.  
9

10 Signed under penalty of perjury of the laws of the State of Washington this 10 day of  
11 May 2012, at Boise, Idaho.

12 

13 JAMES M. PETERS  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 24<sup>th</sup> of May, 2012, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Plaintiffs attorney:

**Plaintiffs' Attorneys:**

dandavies@dwt.com  
kathleen.zellner@gmail.com  
dhjohnson43@aol.com

AND TO

**Attorney for Co-Defendants Krause, Clark Co. Sheriff's Office, Clark Co. Prosecutor's Office:**

Bernard.veljadic@clark.wa.gov  
gbogdanovich@lldkb.com  
jefff@fjtlaw.com

**Attorney for Co-Defendant Spencer:**

dunnwh@pacifier.com  
western@wscd.com

By: s/Patricia C. Fetterly  
PATRICIA C. FETTERLY, WSBA No. 8425  
Assistant Attorney General  
DANIEL J. JUDGE, WSBA No. 17392  
Senior Counsel  
Attorney General's Office  
P.O. Box 40126  
Olympia, WA 98504-0116  
Telephone: (360) 586-6300  
Fax: (360) 586-6655  
E-mail: PatriciaF1@atg.wa.gov  
Attorneys for Defendant

Service accepted and receipt of  
true copy acknowledged this  
25 day of January, 1985.

ARTHUR D. CURTIS  
Prosecuting Attorney

By James M. Pety  
Deputy Prosecuting Attorney

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 85-1-00007-2
	)	
v.	)	OMNIBUS APPLICATION BY DEFENDANT
	)	AND ORDER OF COURT
CLYDE RAY SPENCER,	)	
	)	
Defendant.	)	

DATE: 1-25-85

NOTICE TO: DEPUTY PROSECUTING ATTORNEY

1. MOTION BY DEFENDANT

Pursuant to and in accordance with Rule 4.5 of the Criminal  
Rules for Superior Court, Plaintiff makes application or motions  
checked as follows:

1. To dismiss for failure of the information to state an offense.
2. To sever Defendant's case and for separate trial.
3. To sever counts and for a separate trial.
- ✓ 4. To make more definite and certain.

Answer: \_\_\_\_\_ will do.

- ✓ 5. For discovery of all oral, written or recorded statements made by Defendant to investigating officers or to third parties and in the possession of the Plaintiff.

Answer: JP will provide

- ✓ 6. For discovery of the names and addresses of Plaintiff's witnesses and their statements.

Answer: JP will provide

OMNIBUS APPLICATION BY DEFENDANT  
AND ORDER OF COURT - 1

EXHIBIT

**FILED**  
JAN 25 1985  
George J. Miller, Clerk, Clark Co.

FERGUSON, EIESLAND, & RULLI  
ATTORNEYS AT LAW  
401 W. 136 STREET  
P.O. BOX 1339  
VANCOUVER, WASHINGTON 98444  
(206) 693-3413

- 1 ☒ 7. To inspect physical or documentary evidence in  
2 Plaintiff's possession.  
3 Answer: JP will provide  
4 ☐ 8. To suppress physical evidence in Plaintiff's possession  
5 because of (1) illegal search, (2) illegal arrest.  
6  
7 ☒ 9. For hearing under Rule 3.5. - *Reserve*  
8 ☐ 10. To suppress evidence of the identification of the  
9 Defendant.  
10 ☒ 11. To take the deposition of witnesses.  
11 ☐ 12. To secure the appearance of a witness at trial or  
12 hearing.  
13 ☐ 13. To inquire into the conditions of pretrial release.

#### 14 II. TO REQUIRE THE PROSECUTION

- 15 ☐ 14. To state:  
16 (a) If there was an informer involved;  
17 (b) Whether he will be called as a witness at the  
18 trial; and  
19 (c) To state the name and address of the informer or  
20 claim the privilege.  
21 ☒ 15. To disclose evidence in Plaintiff's possession,  
22 favorable to Defendant on the issue of guilt.  
23 Answer: JP will provide  
24 none known  
25 ☒ 16. To disclose whether it will rely on prior acts or  
26 convictions of a similar nature for proof of knowledge  
27 or intent.  
28 Answer: JP will disclose  
29 none known  
30 ☒ 17. To advise whether any expert witness will be called,  
31 and if so, supply:  
32 (a) Name of witness, qualifications and subject of  
testimony;

OMNIBUS APPLICATION BY DEFENDANT  
AND ORDER OF COURT - 2

FERGUSON, EIESLAND, & RULLI  
ATTORNEYS AT LAW  
401 W. 126 STREET  
P.O. BOX 1329  
VANCOUVER, WASHINGTON 98666  
(206) 493-5812

(b) Report.

Answer: JP will disclose  
                     none known

✓ 18. To supply any reports or tests of physical or mental examinations in the control of the prosecution.

Answer: JP will provide  
                     none known

✓ 19. To supply any reports of scientific tests, experiments, or comparisons and other reports to experts in the control of the prosecution pertaining to this case.

Answer: JP will provide  
                     none known

✓ 20. To permit inspection and copying of any books, papers, documents, photographs or tangible objects which the prosecution:

- (a) obtained from or belonging to the Defendant, or  
 (b) which will be used at the hearing or trial.

✓ 21. To supply any information known concerning a prior conviction of persons whom the prosecution intends to call as witnesses at the hearing or trial.

Answer: JP will provide  
                     JP none known

22. To inform the Defendant of any information he has indicating entrapment of the Defendant.

Answer: \_\_\_\_\_ will provide  
                     none known

✓ 23. Additionally, \_\_\_\_\_

For a hearing to determine whether the victim is  
competent to testify at trial.

For a continuance of the trial date.

OMNIBUS APPLICATION BY DEFENDANT  
 AND ORDER OF COURT - 3

FERGUSON, EIESLAND, & RULLI  
 ATTORNEYS AT LAW  
 401 W. 136 STREET  
 P.O. BOX 1339  
 VANCOUVER, WASHINGTON 98446  
 (206) 499-9819

1 DATED this 25 day of January, 1985.

2  
3  
4 James E. Rulli  
5 James E. Rulli  
6 Attorney for Defendant

7  
8  
9 Requested items not answered are disputed. All information  
10 promised to be supplied in the future will be provided by  
11 Ten days before trial.  
12

13 James H. Peters  
14 Deputy Prosecuting Attorney

15 ORDER

16  
17  
18 The foregoing requests are granted as noted above.

19 DATED this 25 day of January, 1985.

20  
21 Tom Ridge  
22 Judge of the Superior Court  
23  
24  
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OMNIBUS APPLICATION BY DEFENDANT  
AND ORDER OF COURT - 4

FERGUSON, EIESLAND, & RULLI  
ATTORNEYS AT LAW  
401 W. 12th STREET  
P.O. BOX 1209  
VANCOUVER, WASHINGTON 98668  
(206) 493-8813

**In the Superior Court of the State of Washington  
In and For the County of Clark**

STATE OF WASHINGTON,

Plaintiff,

vs.

CLYDE RAY SPENCER,

No. 85-1-00007-2

**INFORMATION**

AMENDED

Defendant.

COMES NOW the Prosecuting Attorney in and for Clark County, State of Washington, and does by this inform the Court that the above named defendant..... is..... guilty of the..... crime... committed as follows, to-wit:

Count I.

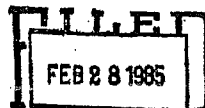
That he, CLYDE RAY SPENCER, in the County of Clark, State of Washington, on one or more occasions between July 14, 1984, and August 26, 1984, being over thirteen (13) years of age, did unlawfully and feloniously engage in sexual intercourse with Kathryn E. Spencer, who was less than eleven (11) years of age at the time, to-wit: age five (5) years, in violation of RCW 9A.44.070(1), and contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Washington.

Count II.

That he, CLYDE RAY SPENCER, in the County of Clark, State of Washington, on one or more occasions between July 14, 1984, and August 26, 1984, did knowingly cause Kathryn E. Spencer, not the spouse of the defendant and less than fourteen (14) years of age, to-wit: age five (5) years, to have sexual contact with the defendant or another, in violation of RCW 9A.44.100(1)(b) and contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Washington.

Count III.

That he, CLYDE RAY SPENCER, in the County of Clark, State of Washington, on an unknown date during the summer of 1984, being a person over thirteen years of age, did engage in sexual intercourse with Mathew Allen Charles Hanson, who is less than eleven years old, to-wit: age four, in violation of RCW 9A.44.070 and contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Washington.



ARTHUR D. CURTIS, *George J. Miller, Clark, Clark Co.*  
Prosecuting Attorney in and for Clark County, Washington

By \_\_\_\_\_  
Deputy Prosecuting Attorney

EXHIBIT 2

Count IV.

That he, CLYDE RAY SPENCER, in the County of Clark, State of Washington, on an unknown date between August 27th, 1984, and December 25, 1984, being a person over thirteen years of age, did engage in sexual intercourse with Mathew Allen Charles Hanson, who is less than eleven years old, to-wit: age four, in violation of RCW 9A.44.070 and contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Washington.

Count V.

That he, CLYDE RAY SPENCER, in the County of Clark, State of Washington, on or about February 16, 1985, being a person over thirteen years of age, did engage in sexual intercourse with Mathew Allen Charles Hanson, who is less than eleven years old, to-wit: age four, in violation of RCW 9A.44.070 and contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Washington.

February 28, 1985

ARTHUR D. CURTIS,  
Prosecuting Attorney  
Clark County, Washington

BY:

*James M. Peters*  
James M. Peters

Deputy Prosecuting Attorney

Count I: Statutory Rape I, RCW 9A.44.070(1)  
Count II: Indecent Liberties, RCW 9A.44.100(1)(b)  
Count III: Statutory Rape I, RCW 9A.44.070  
Count IV: Statutory Rape I, RCW 9A.44.070  
Count V: Statutory Rape I, RCW 9A.44.070

INFORMATION - Page 2

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON, )  
Plaintiff, ) No. 85-1-00007-2  
vs. )  
CLYDE RAY SPENCER, ) NOTICE OF INTENT TO USE  
Defendant. ) STATEMENTS PURSUANT TO  
RCW 9A.44.120

TO: CLYDE RAY SPENCER, THE ABOVE NAMED DEFENDANT AND  
TO YOUR ATTORNEY: JAMES RULLI

Comes now Arthur D. Curtis, Prosecuting Attorney for  
Clark County, by and through James M. Peters, Deputy Prosecuting  
and does give notice to the defendant named herein, and his  
counsel, James Rulli, of intent to use the out of court  
statements of Kathryn Spencer, age 6, and Mathew Hansen, age  
five, <sup>and Mathew Spencer, age 9</sup> pursuant to RCW 9A.44.120. Said statements are set  
forth in the police reports, specifically interviews between  
Sharon Krause, Shirley Spencer, and Deanne Spencer, copies of  
which have been provided to the defendant and his attorney.  
Further specifics, if needed, will be provided on request.

DATED this 10 day of May, 1985.

*James M. Peters*  
James M. Peters  
Deputy Prosecuting Attorney

Service accepted and receipt of  
true copy acknowledged this  
10 day of May, 1985.

*James Rulli*  
Attorney for Defendant

**FILED**  
MAY 10 1985

George J. Miller, Clerk, Clark Co.

NOTICE - 1

EXHIBIT 3

CLARK COUNTY PROSECUTING ATTORNEY  
1208 FRANKLIN  
P.O. BOX 8998  
VANCOUVER, WASHINGTON 98108  
(206) 439-2321

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2  
3 SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY  
4 STATE OF WASHINGTON, )  
5 Plaintiff, ) NO. 85-1-00007-2  
6 vs. ) ORDER FOR TRANSPORTATION  
7 CLYDE RAY SPENCER, )  
8 Defendant. )  
9

10 THIS MATTER having come on regularly before the Court upon the  
11 Defendant's request for an Order of Transportation and the Court  
12 being fully advised in the premises, now, therefore,

13 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Sheriff  
14 of Clark County shall transport the Defendant to Dr. Kevin B.  
15 McGovern's office located at 1225 N.W. Murray Road, Suite 214,  
16 Portland, Oregon, for an examination to be scheduled by the Clark  
17 County Sheriff.

18 IT IS FURTHER ORDERED that, upon completion of the examination,  
19 the Clark County Sheriff will transport the Defendant back to the  
20 custody of the Clark County Jail pending further order of this Court.

21 DATED this 19 day of March, 1985.

22  
23 *Tom Lodge*  
JUDGE

24 Presented by:

25 *James E. Rulli*  
26 JAMES E. RULLI, WSB #6135  
27 Attorney for Defendant

28  
29  
30  
31  
32  
FILED  
MAR 20 1985

George J. Miller, Clerk, Clark Co.

ORDER FOR TRANSPORTATION

JAMES E. RULLI  
ATTORNEY AT LAW  
408 W. 8th STREET  
P.O. BOX 1338  
VANCOUVER, WASHINGTON 98006  
(206) 683-8215

EXHIBIT 4

20

5x10

32x1

## SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

STATE OF WASHINGTON )

Plaintiff, )

NO. 85-1-00007-2

vs. )

CLYDE RAY SPENCER, )

ORDER FOR TRANSPORTATION

Defendant. )

THIS MATTER having come on regularly before the Court upon the Defendant's request for an Order of Transportation and the Court being fully advised in the premises, now therefore,

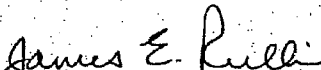
IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Sheriff of Clark County shall transport the Defendant to the Psychiatric unit of Holladay Park Hospital located at 1225 N.E. 2nd Ave., Portland Oregon, for an examination to commence at 8:00.

IT IS FURTHER ORDERED that, upon completion of the examination, the Clark County Sheriff will transport the Defendant back to the custody of the Clark County Jail pending further order of the Court.

DATED this 10 day of May, 1985.

  
JUDGE

Presented By:

  
JAMES E. RULLI, WSB #6135  
Attorney for Defendant.

FILED

MAY 10 1985

George J. Miller, Clerk, Clark Co.

Service accepted this \_\_\_\_\_ day  
of May, 1985

Deputy Prosecuting Attorney  
James Peters

JAMES E. RULLI  
ATTORNEY AT LAW  
408 W. 9th STREET  
P.O. BOX 1338  
VANCOUVER, WASHINGTON 98006  
(206) 463-5513

EXHIBIT 5